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November 16, 2010

BY ECF

Honorable Steven M. Gold
Chief United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Maurice Phillips v. City of New York, et al.
10 CV 4731 (ERK) (SMG)

Your Honor:

I represent the plaintiff in the above-referenced matter. I write in response to defendant City's letter dated today. At the outset, I note with surprise that the City did not contact the undersigned to discuss this matter prior to making its application, especially in light of the fact that it purports to describe the undersigned's understanding of Your Honor's ruling at yesterday's conference.

The City appears to be asking the Court to make a distinction between identifying officers involved in arresting Mr. Phillips and identifying individuals likely to have discoverable information pursuant to Rule 26(a)(1)(A)(i) of the Federal Rules of Civil Procedure.¹ As Your Honor rightfully noted at the conference, such a semantic distinction is meaningless as each of the officers involved in plaintiff's arrest is likely to have discoverable information in this action. The requirements of the Federal Rules regarding disclosure of witness identities is clear, as is Your Honor's Minute Order. The City cannot plausibly contend otherwise and its application can have no purpose other than to allow it to evade its discovery obligations and add needless delay and inefficiency to the prosecution of this action.

¹ Rule 26(a)(1)(A)(i) requires that "without awaiting a discovery request" a party "must" disclose "the name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment." FED. R. CIV. P. 26(a)(1)(A)(i).

Accordingly, plaintiff respectfully requests that Your Honor deny defendant City's application for clarification and allow the Minute Order to stand. Thank you for your consideration of this request.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Gabriel P. Harvis', written in a cursive style.

Gabriel P. Harvis

cc: Phillip R. DePaul, Esq.